Registered No. T. 10. Registered No. M. 4631.

GAZETTE EXTRAORDINARY

PUBLISHED BY AUTHORITY

FRIDAY, 5th August 1949/21st Karkatakam 1124.

CONTENTS.

ORDINANCE No. X OF 1124

THE COCHIN TEMPLE ENTRY AUTHORISATION PROCLAMATION (AMENDMENT) ORDINANCE, 1124.

WHEREAS it is deemed necessary to amend the Cochin Temple Entry Authorisation Proclamation V of 1123;

NOW, therefore in exercise of the powers conferred by Article XI of the Covenant entered into between the Rulers of Travancore and Cochin for the formation of the United State, His Highness the Raj Pramukh is pleased to make and promulgate the following Ordinance:—

Short title and commencement.

1. This Ordinance may be called the Cochin Temple Entry Authorisation Proclamation (Amendment) Ordinance, 1124 and it shall come into force at once.

Amendment of Section 2.

2. For clause (2) of Section 2 of the Cochin Temple Entry Authorisation Proclamation, V of 1123, hereinafter referred to as the Proclamation, the following shall be substituted, namely:

"(2) "temple" means a place, by whatever name known, which is dedicated to, or for the benefit of, or used as of right by, the Hindu community or any section thereof, as a place of public religious worship, and includes subsidiary shrines, as well as tanks appurtenant to the temple."

Deletion of Sections 5 and 8.

3. Sections 5 and 8 of the Proclamation shall be deleted.

RAMA VARMA,
Raj Pramukh.

ORDINANCE No. XI OF 1124.

PREVENTION OF CORRUPTION ORDINANCE, 1124.

WHEREAS it is expedient to make more effective provision for the prevention of bribery and corruption;

NOW, therefore, in exercise of the powers conferred by Article XI of the Covenant entered into between the Rulers of Travancore and Cochin for the formation of the United State;

His Highness the Raj Pramukh is pleased to make and promulgate the following Ordinance:—

Short title, extent and commencement.

1. (1) This Ordinance may be called the Prevention of Corruption Ordinance, 1124.

(2) It extends to the whole of the United State of Travancore and Cochin and it applies also to all servants of the Government of the United State of Travancore and Cochin in or outside the United State.

Interpretation.

2. For the purposes of this Ordinance "Public Servant" means:—

First—every officer appointed by Government or under Government sanction.

Second—every servant appointed by Government or under Government sanction or by any Government Officers under the authority conferred on them by any law for the time being in force.

Third—every member of the Legislative Assembly, every member of the Municipal Councils, every member of the City Corporation, every member of the Village Panchayats, every member of the Village Uplift Committee, every member of the Village Unions, every member of the Village Courts, every office-bearer and every member of the Committees or Societies and other bodies constituted under the Co-operative Societies Act, and every member of any Committee constituted by Government.

Fourth—every servant of any institution under the control or management of Government.

Fifth—every arbitrator or other person to whom any cause or matter has been referred for decision or report by any court of justice, or any other competent public authority.

Sixth—every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

Seventh—every person who has any public duty to perform.

Explanation (1). Wherever the words "public servant" occur they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation (2). The word "election" denotes an election for the purpose of selecting members of any legislative, municipal or other public authority of whatever character the method of selection to which is by, or under, any law prescribed as by election.

Offences under Sections 153 and 157 of the Travancore Penal Code or Sections 147 and 151 of the Cochin Penal Code to be cognizable offences.

3. An offence punishable under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code shall be deemed to be a cognizable offence for the purposes of the Travancore and Cochin Codes of Criminal Procedure, notwithstanding anything to the contrary contained therein:

Provided that a police officer below the rank of Assistant Superintendent of Police shall not investigate any such offence without the order of a Magistrate of the first class or make any arrest therefor without a warrant.

Explanation. The words "Public Servant" occurring in Sections 153 and 157 of the Travancore Penal Code or Sections 147 and 151 of the Cochin Penal Code shall mean a public servant as defined in this Ordinance.

Presumption where public servant accepts gratification other than legal remuneration.

4. Where in a trial of an offence punishable under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in the said Section 153 or Section 147 or as the case may be, without consideration or for a consideration which he knows to be inadequate:

Provided that the court may decline to draw such presumption if the gratification or thing aforesaid is in its opinion so trivial that no inference of corruption may fairly be drawn.

Criminal misconduct in discharge of official duty.

5. (1) A public servant is said to commit the offence of criminal mis-conduct in the discharge of his duty:

(*a*) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in Section 153 of the Travancore Penal Code or Section 147 of the Cochin Penal Code; or

(*b*) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(*c*) If he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(*d*) if he, by corrupt or illegal means or by otherwise abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage.

(2) Any public servant who commits criminal mis-conduct in the discharge of his duty shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

(3) Notwithstanding anything contained in the Travancore or Cochin Code of Criminal Procedure, a Police Officer below the rank of Assistant Superintendent of Police shall not investigate any offence punishable under sub-section (2) without the order of a Magistrate of the First Class or make any arrest therefor without a warrant.

(4) The offence under this section shall be triable only by a Magistrate of the First Class or by a Court of session.

Special Rules of evidence.

6. In any trial of or inquiry by a court into an offence punishable under sub-section (2) of Section 5 of this Ordinance or under Section 153 or Section 157 of the Travancore Penal Code or under Section 147 or Section 151 of the Cochin Penal Code, the fact that an accused person or any other person on his behalf is in possession, for which the accused person cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income may be proved, and on such proof, the court shall presume, unless the contrary is proved, that the accused person is guilty of the offence of criminal misconduct in the discharge of his official duty under Section 5 of this Ordinance or of an offence under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code, as the case may be, and his conviction therefor shall not be invalid by reason only that it is based solely on such presumption.

Special provisions regarding punishments

7. (1) Notwithstanding anything to the contrary contained in the Travancore or Cochin Penal Code or the Travancore or Cochin Code of Criminal Procedure, relating to sentences and the powers of courts to impose sentences, where any person is found guilty of an offence under Section 5 of this Ordinance or of an offence under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code, as the case may be, the court convicting him, shall impose on him in addition to any sentence of imprisonment or fine which it would otherwise have imposed a further sentence of fine which shall not be less than the amount of money or value of other property, if any, found by the court to have been illegally procured by the offender or pass an order for the confiscation of property so illegally procured as in the circumstances of the case the court may think proper.

(2) In imposing the additional fine referred to in sub section (1) the court shall be competent notwithstanding any provisions to the contrary contained in the Travancore or Cochin Penal Code and the Travancore or Cochin Codes of Criminal Procedure, to award a sentence of imprisonment in default of payment of such additional fine, provided that the total sentence of imprisonment in default of payment of the fine or fines if any, does not exceed the substantive sentence awarded for the offence or where no such substantive sentence of imprisonment has been awarded, the maximum sentence of imprisonment prescribed for the offence.

(3) Where instead of passing an additional sentence of fine, the court orders the confiscation of property found to have been illegally procured by the offender, the property confiscated shall be dealt with in such manner as may be prescribed by Government in this behalf.

Public servants to furnish particulars of property on demand.

8. (1) Government or the Commission appointed under this Ordinance may require any person who has been or is a public servant to furnish a true and correct statement of all property whether movable or immovable, income and such other particulars in respect of his own property or income or of property or income by whomsoever such property or income may be held on behalf of the public servant concerned or of property or income of relations dependent on the public servant concerned as may in the opinion of Government or of the Commission be necessary for the purposes of investigation or inquiry into offences under this Ordinance or under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code.

(2) Any such person who fails to furnish the information required under sub-section (1) or who furnishes information which he knows or has reason to believe to be false shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both.

Institutions and persons to furnish particulars of property or transactions of public servants with them

9. (1) Government or the Commission appointed under this Ordinance may call upon any person whatsoever with whom a public servant is known or is believed in the opinion of Government or such Commission to be having or to have had financial or other transactions, to furnish in such form as may be prescribed by Government or the Commission, particulars of such financial or other transactions.

Such person, notwithstanding anything contained in the Bankers Books Evidence Act of Travancore or of Cochin, shall thereupon furnish within such time as may be specified by Government or the said Commission a true and correct statement embodying the particulars called for.

(2) Any police or other officer authorised in writing by Government or by the Commission may, for the purpose of verifying the correctness of any statement so furnished or for the purpose of investigation, enter on any premises belonging to such person, demand the production of the relevant books, papers or other documents and inspect them; and in the case of failure to produce the said books, papers or other documents or in cases in which no statement is furnished by the said person, may search for and seize such books, papers or other documents as are believed to contain particulars of financial or other transactions called for under sub-section (1).

(3) Notwithstanding anything to the contrary contained in any law for the time being in force, Government may, if they are of opinion that it is expedient so to do for the purpose of securing the ends of justice, impose on any person such restrictions and conditions as Government may deem fit regarding the use or disposal of or dealings in any of the properties or other pecuniary resources of a public servant who is suspected of having committed any offence under this Ordinance or under Section 153 or 157 of the Travancore Penal Code or Section 147 or 151 of the Cochin Penal Code.

(4) Any person who fails to furnish the particulars called for under sub-section (1) or fails to allow access for inspection of any books, papers or other documents or to produce any books, papers or other documents for inspection, within the time prescribed by the police or other officer under sub-section (2) or disobeys any orders or directions under sub-section (3) shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both.

Explanation :—If the person contravening the provisions of this Section is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Powers of Commission or officer of anti-corruption measures.

10. (1) Government may appoint a Commission consisting of one or more persons for the more effective working of this Ordinance and may confer on such Commission such powers as they may by rules prescribe.

(2) Government may appoint police officers under such Commission and may confer on such Commission all the powers of a police officer of such rank as Government deem fit.

How Court shall take cognizance of offence.

11. Notwithstanding anything contained in the Travancore or Cochin Code of Criminal Procedure, no court shall take cognizance of an offence punishable under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code or under sub-section (2) of Section 5 of this Ordinance alleged to have been committed by a public servant except with the previous permission of Government or with the previous sanction of officers specially empowered by Government in this behalf.

Accused person to be competent witness.

12. Any person charged with an offence punishable under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code or under sub-section (2) of Section 5 of this Ordinance shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(a) he shall not be called as a witness except on his own request;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial;

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged or is of bad character unless—

(i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

Bar against prosecution of officers acting under this Ordinance.

13. No suit or prosecution or other legal proceeding shall lie against any person for any act done or purporting to be done by him under this Ordinance except with the sanction of Government.

Power to make rules.

14. Government may by notification in the Government Gazette make rules for carrying into effect the provisions of this Ordinance.

RAMA VARMA,
Raj Pramukh.

ORDINANCE No. XII OF 1124.

THE UNITED STATE OF TRAVANCORE AND COCHIN BOARD OF REVENUE ORDINANCE, 1124.

Preamble.

WHEREAS for the peace and good Government of the United State of Travancore and Cochin it is necessary to constitute a Board of Revenue for the United State and to define the powers and functions of the Board of Revenue;

NOW THEREFORE in exercise of the powers conferred by Article XI of the Covenant entered into by the Rulers of Travancore and Cochin for the formation of the United State;

HIS HIGHNESS THE RAJ PRAMUKH is pleased to make and promulgate the following Ordinance:—

Short title, extent and commencement.

1. (1) This Ordinance may be called The United State of Travancore and Cochin Board of Revenue Ordinance.

(2) It extends to the whole of the United State.

(3) It shall come into force at once.

Definitions.

2. In this Ordinance unless there is anything repugnant in the subject or context:—

(a) "Board" means the Board of Revenue as constituted by Government under this Ordinance.
(b) "Member" means the member of the Board.
(c) "Government" means Government of the United State.
(d) "Notified" means notified by Government in the Government Gazette.
(e) "Prescribed" means prescribed by rules made under this Ordinance.

Constitution of the Board of Revenue.

3. There shall be constituted for the United State a Board of Revenue consisting of one or more members as the Government may from time to time think fit to appoint.

Conditions of service of members of Board.

4. (1) When any member is by reason of absence or otherwise, unable to perform the duties of his office, the Government may by notification, appoint any person to be, for the time being a member of the Board.

(2) The terms and conditions of service of members of the Board shall be such as may be prescribed.

(3) A person shall not be qualified for appointment as a member of the Board unless he has an aggregate service of three years as the Head of one of the major Departments with which the Board is concerned or as the Secretary to Government, Secretary to the Board of Revenue or as Division Peishkar or in all these capacities.

Salaries and allowances.

5. There shall be paid to the members of the Board such salaries and allowances as the Government may from time to time determine.

Powers and functions of the Board.

6. The Board shall exercise all appellate or revisional powers exercisable by the Government or a Minister under the enactments mentioned in the first schedule or the rules passed thereunder and for this purpose all references in the said enactments or rules to the Government or the Minister shall be construed as references to the Board.

Powers of control and supervision of the Board.

7. (1) The Board shall be the administrative head of the departments mentioned in the second schedule and shall exercise general supervision over the departments mentioned in the third schedule.

(2) The Board shall exercise such other powers as Government may by notification in the Government Gazette confer on it.

Exercise of jurisdiction by one or more members of the Board.

8. The Board may, with the previous sanction of the Government, make rules for the exercise by one or more members of the Board of the powers and functions of the Board and all decisions made pursuant to such powers and functions shall be deemed to be the decisions of the Board.

Board to exercise the powers and functions of the Board of Revenue under the Travancore Income-Tax and General Sales Tax Acts.

9. The Board shall exercise all the powers and perform all the functions of the Board of Revenue constituted under the Travancore Income Tax Act, 1121 (XVIII of 1121) and the Travancore General Sales Tax Act, 1124 (XVIII of 1124) and all references to the Board of Revenue in the said enactments shall be construed as references to the Board of Revenue constituted under this Ordinance.

Powers of revision of Government.

10. Government may at any time call for and examine the record of any case pending before, or disposed of by the Board, and may pass such order in reference thereto as Government think fit. Provided that no order affecting any question of right between private persons shall be passed under this Section unless Government have given the parties interested an opportunity of being heard.

Review of orders.

11. The Board may either on its own motion or on the application of any party interested review any order passed by itself on the ground of mistake, mis-representation, fraud or any error of procedure and pass such orders in reference thereto as it thinks fit:

Provided that—

(a) No order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order;

(b) No order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings.

Application of the law of limitation.

12. The law of limitation for the time being in force shall apply to all applications for review under this Ordinance.

Power to make rules.

13. The Board may, with the previous sanction of Government, from time to time, make rules for regulating generally the practice and procedure of the Board including rules as to the persons practising before the Board, as to the time within which in the absence of any express provision in the relevant enactment appeals or applications for revision to the Board may be filed, and as to the cost of and incidental to any proceedings before the Board.

Administrative functions of the Board.

14. The Board shall in respect of all matters subject to its appellate or revisional jurisdiction have superintendence over all authorities in so far as such authorities deal with such matters and may do any of the following things, that is to say,—

(a) call for returns;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings in respect of such matters; and

(c) prescribe forms in which books, entries and accounts shall be kept by such authorities:

Provided that such rules and forms shall not be inconsistent with the provisions of any law for the time being in force and shall require the previous approval of Government.

Power to amend the schedule.

15. The Government may by notification in the Gazette amend, alter or add to the Schedules.

Power of Government to make rules.

16. The Government may by notification in the Gazette make rules to carry out the purposes of this Ordinance.

FIRST SCHEDULE.

A. TRAVANCORE ACTS.

Serial No.	Powers and functions under.	Description.
1.	The Revenue Summons Act, V of 1068 ...	Revision under Section 9.
2.	The Revenue Recovery Act, I of 1068 ...	Revision under Section 50.
3.	The Salt Act, III of 1088 ...	Appeal under Section 78.
4.	The Sea Customs Act, V of 1088 ...	Revision under Section 173.
5.	The Land Customs Act, II of 1091 ...	Revision under Section 42.
6.	The Land Conservancy Act, IV of 1091 ...	Appeal and revision under Section 14.
7.	The Markets Act, VII of 1092 ...	Appeal and revision under Section 28.
8.	The Government Land Assignment Act, III of 1097 ...	Revision under rules passed under the Act.

B. COCHIN ACTS.

Serial No.	Powers and functions under.	Description.
1.	The Revenue Recovery Act, IV of 1083 ...	Revision under Section 61.
2.	The Salt Act, V of 1083 ...	Appeal under Section 41.
3.	The Sea Customs Act XII of 1109 ...	Revision under Section 160.
4.	The Land Conservancy Act IV of 1086 ...	Appeal and revision under Section 13.

SECOND SCHEDULE.

DEPARTMENTS OVER WHICH THE BOARD SHALL HAVE ADMINISTRATIVE CONTROL.

1. Land Revenue including Survey, Settlement, Land Records and Land Acquisition.
2. Excise, Customs and Prohibition.
3. Income-Tax, both Agricultural and non-Agricultural.
4. Court of Wards.
5. Sales Tax.
6. Mines and Minerals.
7. Famine Relief.

THIRD SCHEDULE.

DEPARTMENTS OVER WHICH THE BOARD SHALL HAVE SUCH CONTROL AS IS FOUND NECESSARY FOR CO-ORDINATING THEIR ACTIVITIES AND INCREASING THEIR EFFICIENCY.

1. Co-operation.
2. Panchayats, Village Unions, Village Uplift and Cottage Industries.
3. Fisheries.
4. Registration.

RAMA VARMA,

Raj Pramukh.

ORDINANCE No. XIII OF 1124.

THE UNITED STATE OF TRAVANCORE AND COCHIN STAMPS VALIDATION ORDINANCE, 1124.

Preamble.

Whereas immediate action is necessary to provide for the validation of the use of Court fee, General, Revenue or other stamps of one covenanting State in the other covenanting State of the United State of Travancore and Cochin;

Now, therefore, in exercise of the powers conferred by Article XI of the Covenant;

His Highness the Raj Pramukh is pleased to make and promulgate the following Ordinance:—

Short title, extent and commencement.

1. (1) This Ordinance may be called "The United State of Travancore and Cochin Stamps Validation Ordinance, 1124".

(2) It shall extend to the whole of the United State of Travancore and Cochin.

(3) It shall come into force at once.—

Definitions.

2. For the purpose of this Ordinance.

(a) "United State" means the United State of Travancore and Cochin.

(b) "Government" means the Government of the United State.

(c) "Covenanting State" means a State which has covenanted to unite for the purpose of forming the United State.

Validity of the use of any stamp of one covenanting State in the other.

3. Notwithstanding anything contained in any law for the time being in force in the whole or any part of the United State, the use of any stamp, court fee, general, revenue or any other, whether adhesive, impressed or embossed, issued by either of the covenanting States, which can be validly used for a specified purpose in any area comprised in that State shall be valid for that purpose throughout the whole of the area comprised in the United State.

RAMA VARMA,
Raj Pramukh.

ORDINANCE No. XIV OF 1124.

THE TRAVANCORE PROHIBITION (TEMPORARY AMENDMENT) ORDINANCE, 1124.

Preamble.

Whereas it is expedient temporarily to amend the Travancore Prohibition Act, 1123, VII of 1123 for the purposes hereinafter appearing;

Now, therefore, in exercise of the powers conferred by Article XI of the Covenant entered into between the Rulers of Travancore and Cochin for the formation of the United State of Travancore and Cochin, His Highness the Raj Pramukh is pleased to make and promulgate the following Ordinance:—

Short Title Commencement and Duration.

1. (1) This Ordinance may be called the Travancore Prohibition (Temporary Amendment) Ordinance, 1124.

(2) It shall come into force on the 1st day of Chingom 1125, and shall cease to be in force on such date as Government may, by Notification in the Government Gazette appoint in this behalf.

Travancore Prohibition Act not to apply to storage export, etc. of ganja from Government store house at Trivandrum.

2. Notwithstanding that the provisions of the Travancore Prohibition Act, 1123 other than Sections 1, 7 and 11, come into force on the 1st day of Chingom 1125, in the Taluk of Trivandrum, Ganja may continue to be stored in the Government store-house in Trivandrum; and continue to be exported, transported or sold from the said store-house, as if the said provisions had not come into force in the Taluk of Trivandrum, and such storage, export, transport and sale shall continue to be governed by the enactments mentioned in the schedule to the Act aforesaid, with such subsequent statutory modifications as may have been or may be made in those enactments and by the rules, orders and notifications made or issued under those enactments and for the time being in force.

RAMA VARMA,
Raj Pramukh.

PRINTED & PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS, TRIVANDRUM, 1949